

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC.CIVIL APPLICATION ST. NO.2744 of 2019

Mrs. Sheetal Amardeep Kamble

...Applicant

Versus

Mr. Amardeep Tanaji Kamble

...Respondent

...

Mr. Raghvendra B. Kulkarni Advocate for the Applicant.

Ms. Kokila Kalra a/w Ms. Beerta H. Bajawa Advocate for the Respondent.

...

CORAM : K.K.TATED, J.
DATED : AUGUST 29th, 2019

P.C.

1. Heard learned counsel for the parties.
2. By this Misc. Civil Application under Section 24 of Civil Procedure Code, Applicant-Wife seeking transfer of Hindu Marriage Petition No. 593 of 2018 filed by Respondent-Husband before the Civil Judge, Senior Division, Thane, for divorce under Section 13(1)(1)(i-a) and Section 26 of the Hindu Marriage Act, 1955 to the Civil Judge, Senior Division, Pimpri, District Pune.
3. Learned counsel for the Applicant submits that, the Applicant is household wife. She is staying with her parents at Pune. He submits that, it is very difficult for Applicant to travel from Pune to Thane on each and every date along with 4 years daughter to attend the matter filed by the Respondent- Husband. He

further submits that, even her daughter of 4 years old is not well. Therefore, she has filed Misc. Civil Application. He further submits that, the wife filed Criminal Misc. Application no. 252 of 2017 under Sections 12, 18, 19, 20, 22, 23 of Protection of Women against Domestic Violence Act, 2005 before the learned Judicial Magistrate First Class, Pimpri, Pune against the Respondent. In that matter, the Respondent is appearing. He submits that, as the Criminal Misc. Application No. 252 of 2017 is pending at Pune, this Hon'ble Court be pleased to transfer the Hindu Marriage Petition filed by Respondent-Husband to Pune. He submits that, if the application is not allowed, it will cause irreparable loss to the Applicant. He submits that even otherwise the financial condition of the Applicant is not well, because of that she is not able to attend the matter at Thane on each and every date. He further submits that the Applicant is getting only Rs. 3000/- per month, by way of maintenance for herself and her daughter as per order dated 20th June 2018 passed by Learned Judicial Magistrate First Class, Pimpri below Exh-5 in Criminal Misc. Application No. 252 of 2017.

4. On the other hand, the learned counsel Ms. Kokila Kalra appearing on behalf of the Respondent - Husband vehemently opposed the present application. She submits that, the Applicant has already engaged her advocate in Hindu Marriage Petition No. 593 of 2018 filed by Respondent - Husband before Civil Judge Senior Division, Thane. Apart from that, the Applicant has already filed the written statement. She further submits that, the distance between Thane to

Pune is not more than 160 kms. She submits that, the traveling time is also not more than two and half hours. She submits that, the Respondent - Husband is ready to pay sum of Rs. 2500/- for each and every date, whenever the Applicant - Wife attend the matter at Thane. Therefore, there is no question of allowing the present application.

5. The learned counsel for the Respondent submits that, at present the Respondent - Husband is working in courier company at Mumbai, therefore, it is difficult to him to take leave of each and every date if, matter is transfered from Thane to Pune. Therefore, there is no substance in the present Civil Misc. Application, and the same is required to be dismissed with costs.

6. I heard both sides at length. It is to be noted that, the Applicant - Wife is household. She gets amount of Rs. 3000/- per month from the Respondent - Husband by way of maintenance as per order dated 28th June 2018 passed by Judicial Magistrate First Class, Pimpri below exh-5 in Civil Misc. Application No. 252 of 2017. Apart from that, she has to take care of her minor child aged of 4 years only. It is to be noted that, for attending the matter on each and every date from Pune to Thane, she has to travel along with her minor daughter age 4 years and for that purpose, she has to take someone along with her. Presently, Applicant is staying with her parents.

7. In any case, Criminal Misc. Application no. 252 of 2017 filed by the Applicant at Pune is pending for hearing and final disposal on its own merits, in

which the Respondent is appearing. In view of this fact, the following order is passed :

(A) Misc. Civil Application is allowed in terms of prayer clause (a) which reads thus:-

“(a) That this Hon'ble Court be pleased to transfer the Marriage Petition No. 593 of 2018 filed in the Court of Civil Judge Senior Division, Thane by Respondent against the Applicant under Section 13 (1) (1) (i-a) and 26 of Hindu Marriage Act, 1955 for dissolution of marriage by decree of divorce, to the Civil Judge Senior Division, Pimpri, District Pune”

(B) The Miscellaneous Civil Application is disposed of accordingly.

(C) No order as to costs.

(D) Liberty is granted to the Respondent - Husband to file application at Pune for early hearing.

(K.K.TATED, J.)